



STATE OF MINNESOTA

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March 8, 1983

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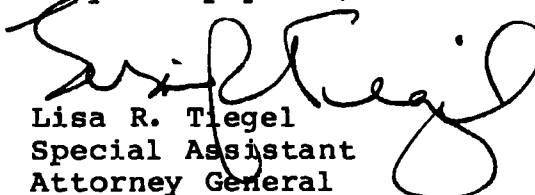
Laurence A. Waldoch
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80 South Eighth Street
Minneapolis, Minnesota 55402

Re: U.S. v. Reilly Tar & Chemical Corp.
File No. Civ. 4-80-469

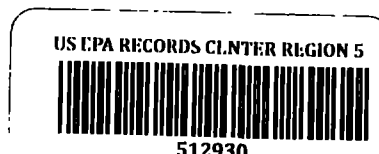
Dear Counsel:

Enclosed and hereby served upon you by mail is "First Request for Admissions with Interrogatories Served by State of Minnesota on Reilly Tar & Chemical Corporation."

Very truly yours,


Lisa R. Tieg
Special Assistant
Attorney General

Enclosure
LRT:lt



AN EQUAL OPPORTUNITY EMPLOYER



UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

and

STATE OF MINNESOTA, by its Attorney
General Hubert H. Humphrey, III,
its Department of Health, and its
Pollution Control Agency

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORTATION;
HOUSING AND REDEVELOPMENT AUTHORITY
OF ST. LOUIS PARK; OAK PARK VILLAGE
ASSOCIATES; RUSTIC OAKS CONDOMINIUM,
INC.; and PHILIP'S INVESTMENT CO.,

Defendants,

and

CITY OF ST. LOUIS PARK,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION;

Defendant,

and

CITY OF HOPKINS,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

Civil No. 4-80-469

FIRST REQUEST FOR
ADMISSIONS WITH
INTERROGATORIES
SERVED BY STATE OF
MINNESOTA ON
REILLY TAR &
CHEMICAL CORPORATION

TO: DEFENDANT REILLY TAR & CHEMICAL CORPORATION AND EDWARD J. SCHWARTZBAUER, BECKY COMSTOCK, AND MICHAEL J. WAHOSKE, ITS ATTORNEYS

Plaintiff-Intervenor State of Minnesota, by its attorneys, does hereby request pursuant to Rule 36, Federal Rules of Civil Procedure, that you admit the truth of the following statements of fact or, if you deny the truth of any stated fact, that you respond to the accompanying Interrogatory:

1. That Reilly Tar & Chemical Corporation ("Reilly Tar") and the City of St. Louis Park ("City") entered into an "Agreement for the Purchase of Real Estate" on April 14, 1972 ("Purchase Agreement.")

Alternative Interrogatory No. 1: If you deny the truth of this statement, please state the facts upon which you rely for such denial and identify by name and address each person who may provide information to support those facts.

2. That prior to execution of the Purchase Agreement, Reilly Tar never submitted to the State of Minnesota ("State") any copies or drafts of the Purchase Agreement.

Alternative Interrogatory No. 2: If you deny the truth of this statement, please identify the person(s) at the State to whom such copies or drafts were submitted, identify the person(s) who submitted such copies or drafts, state where and when such copies or drafts were submitted and attach reproductions of all such copies or drafts.

3. That prior to execution of the Purchase Agreement, the City never submitted to the State any copies or drafts of the Purchase Agreement.

Alternative Interrogatory No. 3: If you deny the truth of this statement, please identify the person(s) at the State to whom such copies or drafts were submitted, identify the person(s) who submitted such copies or drafts, state where and when such copies or drafts were submitted and attach reproductions of all such copies or drafts.

4. That the State did not review either the Purchase Agreement or any drafts of the Purchase Agreement prior to its execution by the City and Reilly Tar.

Alternative Interrogatory No. 4: If you deny the truth of this statement, please identify the person(s) at the State who

reviewed either the Purchase Agreement or drafts of the Purchase Agreement, state when it was reviewed, and identify by name and address each person who may provide information to support the denial.

5. That no person having authority to represent the State submitted to Reilly Tar any comments, either oral or written, on the Purchase Agreement prior to its execution by the City and Reilly.

Alternative Interrogatory No. 5: If you deny the truth of this statement, please identify the person(s) who submitted the comments to Reilly Tar, identify the person(s) who received the comments, state where and when these comments were submitted and attach reproductions of all written comments submitted to Reilly Tar.

6. That the State is not a party to the Purchase Agreement.

Alternative Interrogatory No. 6: If you deny the truth of this statement, please state the facts upon which you rely for such denial and identify by name and address each person who may provide information to support such facts.

7. That paragraph 9 of the Purchase Agreement provides as follows:

9. Current Litigation. It is understood that this agreement represents a means of settling the issues involved in State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs, vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767. It is understood that the City of St. Louis Park will deliver dismissals with prejudice and without cost to defendant executed by itself and by the plaintiff State of Minnesota at closing. Defendant Reilly Tar & Chemical Corporation will deliver a dismissal of its counterclaim with prejudice and without cost to plaintiffs.

Alternative Interrogatory No. 7: If you deny the truth of this statement, please state the facts upon which you rely for such denial and identify by name and address each person who may provide information to support such facts.

8. That the Minnesota Pollution Control Agency, as statutorily constituted and described in Minn. Stat. § 116.02 (1982), has never considered or voted on the issue of settlement of the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation,

Defendant, Hennepin County Minnesota District Court Civil File No. 670767, at any of its regularly scheduled or specially held meetings.

Alternative Interrogatory No. 8: If you deny the truth of this statement, please state when and where the meeting was held and attach a copy of any resolution, motion or minutes which support your statements.

9. That the City never delivered to Reilly Tar a Dismissal with Prejudice, executed by the State, of the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767.

Alternative Interrogatory No. 9: If you deny the truth of this statement, identify by name and address each person who may provide information to support the denial, and attach a copy of the Dismissal with Prejudice.

10. That the State never executed a Dismissal with Prejudice of the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767.

Alternative Interrogatory No. 10: If you deny the truth of this statement, please state the facts upon which you rely for such denial, identify by name and address each person who may provide information to support the denial, and attach a copy of the Dismissal with Prejudice.

11. That there exists no written evidence indicating that, prior to or at the time of the execution of the Purchase Agreement by the City and Reilly Tar, the State accepted the Purchase Agreement as settlement to the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767.

Alternative Interrogatory No. 11: If you deny the truth of this statement, please state the facts upon which you rely for such denial, identify by name and address any person who may provide information to support the denial, and attach a copy of all written evidence indicating the State accepted the Purchase Agreement as settlement.

12. That there exists no verbal communication or other non-written evidence indicating that, prior to or at the time

of the execution of the Purchase Agreement by the City and Reilly Tar, the State accepted the Purchase Agreement as settlement to the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767.

Alternative Interrogatory No. 12: If you deny the truth of this statement, please describe the nature of the communication or other non-written evidence, identify the person(s) initiating the communication or other non-written evidence and the person(s) receiving the communication or other non-written evidence, state where and when the communication or other non-written evidence was transmitted and identify by name and address each other person who may provide information to support the denial.

13. That there exists no written evidence indicating that, after the time of the execution of the Purchase Agreement by the City and Reilly Tar, the State accepted the Purchase Agreement as settlement to the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767.

Alternative Interrogatory No. 13: If you deny the truth of this statement, please state the facts upon which you rely for such denial, identify by name and address any person who may provide information to support the denial, and attach a copy of all written evidence indicating the State accepted the Purchase Agreement as settlement.

14. That there exists no verbal communication or other non-written evidence indicating that, after the execution of the Purchase Agreement by the City and Reilly Tar, the State accepted the Purchase Agreement as settlement to the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767.

Alternative Interrogatory No. 14: If you deny the truth of this statement, please describe the nature of the communication or other non-written evidence, identify the person(s) initiating the communication or other non-written evidence and the person(s) receiving the communication or other non-written evidence, state where and when the communication or other non-written evidence was transmitted

and identify by name and address each other person who may provide information to support the denial.

15. That the State never agreed to settle the action referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767.

Alternative Interrogatory No. 15: If you deny the truth of this statement, please state the facts upon which you rely for such denial, identify by name and address each person who may provide information to support such facts, and attach any documents which support such facts.

16. That on or about June 14, 1973, the City and Reilly Tar executed and entered into a "Hold Harmless Agreement" ("Hold Harmless Agreement.")

Alternative Interrogatory No. 16: If you deny the truth of this statement, please state the facts upon which you rely for such denial and identify by name and address each person who may provide information to support such facts.

17. That, in addition to other recitals, the Hold Harmless Agreement, recites the following as its factual bases:

. . .

WHEREAS, the City agreed in the Agreement of April 14, 1972 that it would deliver dismissals of the above noted action [Hennepin County District Court Civil File No. 670767] with prejudice and without cost to defendant executed by itself and by the Plaintiff State of Minnesota at closing;

WHEREAS, the Plaintiff State of Minnesota has refused at this time to deliver a dismissal of its complaint;

. . .

Alternative Interrogatory No. 17: If you deny the truth of this statement, please state the facts upon which you rely for such denial and identify by name and address each person who may provide information to support such facts.

18. That one reason the City and Reilly Tar entered into the Hold Harmless Agreement was because the State refused to settle the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St.

Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation,
Defendant, Hennepin County Minnesota District Court Civil
File No. 670767.

Alternative Interrogatory No. 18: If you deny the truth of this statement, please state the facts upon which you rely for such denial and identify by name and address each person who may provide information to support such facts.

19. That on June 18, 1973, Wayne G. Popham, Popham, Haik, Schnobrich, Kaufman & Doty, attorneys for the City, executed a Dismissal with Prejudice of the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767, which dismissal provides, in full, as follows:

This action, having been settled as between the City of St. Louis Park, one of the party plaintiffs and Reilly Tar and Chemical Corporation, defendant, insofar as it seeks any remedy on behalf of the City of St. Louis Park, is hereby dismissed with prejudice and without cost to either the City of St. Louis Park or defendant Reilly Tar and Chemical Corporation.

Alternative Interrogatory No. 19: If you deny the truth of this statement, please state the facts upon which you rely for such denial and identify by name and address each person who may provide information to support such facts.

20. That on June 18, 1973, Thomas E. Reiersgord, attorney for Reilly Tar, executed a Dismissal with Prejudice of the litigation referred to as State of Minnesota, by the Minnesota Pollution Control Agency and the City of St. Louis Park, Plaintiffs vs. Reilly Tar & Chemical Corporation, Defendant, Hennepin County Minnesota District Court Civil File No. 670767, which dismissal provides, in full, as follows:

This action, having been settled as between the City of St. Louis Park, one of the party plaintiffs and Reilly Tar and Chemical Corporation, defendant, insofar as it seeks any remedy on behalf of Reilly Tar and Chemical Corporation in its Counterclaim against the City of St. Louis Park, is hereby dismissed with prejudice and without cost to either the City of St. Louis Park or defendant Reilly Tar and Chemical Corporation.

Alternative Interrogatory No. 20: If you deny the truth of this statement, please state the facts upon which you rely

for such denial and identify by name and address each person who may provide information to support such facts.

Respectfully submitted,

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

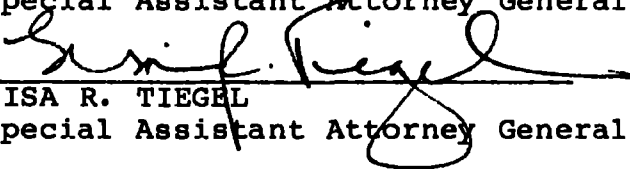
PAUL G. ZERBY
Special Assistant Attorney General

DENNIS M. COYNE
Special Assistant Attorney General

STEPHEN SHAKMAN
Special Assistant Attorney General

March 8, 1983

BY:


LISA R. TIEGEL
Special Assistant Attorney General

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